Glorifying the Constitution and the First Amendment specifically as a solution solidifies neolib’s spread to all of American society – not only was the Constitution originally protective of neoliberal freedoms, but it reinforces current trends to commodify data and information at large and disregard actual inequality.

**Tushnet et. al. ’15[[1]](#footnote-1)**

It may be illuminating to think of **current jurisprudence as part of a neoliberal turn in constitutional doctrine** generally. **This turn is marked by**, among other things, **a strong emphasis on** the **negative liberty** and formal equality of the individual **and a marked lack of concern for material inequality or** the **structural constraints** that can make free choice more nominal than substantive. **Neolib**eralism **embraces** the civil-rights revolution as long as racial equality means color-blindness. It is at home with LGBT rights as expressions of formal equality and negative liberty. Perhaps its most distinctive innovation is to use **the First Amendment to protect the exercise of private economic power from regulation.** This has been most **notorious in** a line of **campaign-finance cases** laying waste to restrictions on political spending, **but** the doctrine has also seen use against regulation of the sale of medical data, tobacco advertising, and financial disclosure. **Its scope has been broad enough to encompass nearly any economic action involving** transmission or **transfer of data.** In an economy awash in data and governed by metaphors of “information,” this doctrine scarcely confronts natural limits.

**They continue:**

If this is an accurate sketch of present trends, then it seems reasonable to speculate that **constitutional property will not soon see new claims** consolidated **around** resurgent **classical liberalism**, despite a series of vivid gestures that way, from the Lucas opinion to the Kelo dissents. Much less will it see a revival of claims for “social rights” except where benefits criteria violate instances of formal neutrality, such as the right to marry regardless of sexual orientation. **Instead, the political economy of the moment is** more **likely to** continue **develop**ing **through First Amendment protections** and negative personal liberty, **which add** up **to the liberty to compete in the market, with no constitutional attention to the outcome.** Although constitutional decisions will continue to engage substantive inequality and protections of private economic power, in the political economy of the twenty-first century, we should expect the idea of property to matter less in this work.

**And, the ahistorical claim that free speech leads to democratic debate and social progress is a myth – the AFF’s faith in the free exchange of ideas denies the history of direct action as key to social change, perpetuating a neoliberal “laissez-faire” approach to politics.**

**Tillett-Saks ‘13[[2]](#footnote-2)**

In the wake of the Brown University shout-down of Ray Kelly, champion of the NYPD’s racist stop-and-frisk policy and racial profiling in general, the debate has resurfaced. Rather than talking past **the anti-protestors’ arguments**, they need to be addressed directly. The prototypical argument in denouncing the protestors is not a defense of Ray Kelly’s racism. It **is twofold: First, that a free-flowing discourse on the matter will allow all viewpoints to be weighed and justice to inevitably emerge victorious on its merits.** Second, that stopping a bigot from speaking in the name of freedom is self-defeating as it devolves our democratic society into tyranny. The twofold argument against the protestors stems from two central myths of neoliberalism. **The argument for free discourse as the enlightened path to justice ignores that direct action protest is primarily responsible for most of the achievements we would consider ‘progress’ historically (think civil rights, workers’ rights, suffrage**, etc.), **not the free exchange of ideas.** The claim that silencing speech in the name of freedom is self-defeating indulges in the myth of the pre-existence of a free society in which freedom of speech must be preciously safeguarded, while ignoring the woeful shortcomings of freedom of speech in our society which must be addressed before there is anything worth protecting. **Critics of the protest repeatedly denounced direct action in favor of ideological debate as the path to social justice.** “It would have been more effective to take part in a discussion rather than flat out refuse to have him speak,” declared one horrified student to the Brown Daily Herald. Similarly, **Brown University President Christina Paxson labeled the protest a detrimental “affront to democratic civil society,” and instead advocated “intellectual rigor, careful analysis, and…respectful dialogue** and discussion.” **Yet the implication that masterful debate is the engine of social progress could not be more historically unfounded. Only in the fairy tale histories of those interested in discouraging social resistance does ‘respectful dialogue’ play a decisive role in struggles against injustice**. The eight-hour workday is not a product of an incisive question-and-answer session with American robber barons. Rather, **hundreds of thousands of workers conducted general strikes during the nineteenth century, marched in the face of military gunfire at Haymarket Square in 1886, and occupied scores of factories in the 1930’s before the eight-hour work day became American law. Jim Crow was not defeated with** the **moral suasion** of Martin Luther King, Jr.’s speeches. **Rather, hundreds of thousands marched on Washington**, suffered through imprisonment by racist Southern law enforcement, and repeatedly staged disruptive protests to win basic civil rights. On a more international scale, **Colonialism**, that somehow-oft-forgotten tyranny that plagued most of the globe for centuries, **did not cease thanks to open academic dialogue. Bloody resistance**, from Algeria to Vietnam to Panama to Cuba to Egypt to the Philippines to Cameroon and to many other countries, **was the necessary tool that unlocked colonial shackles.** Different specific tactics have worked in different contexts, but one aspect remains constant: **The free flow of ideas and dialogue, by itself, has rarely been enough to generate social progress.** It is not that ideas entirely lack social power, but **they have never been sufficient in winning concessions from those in power to the oppressed. Herein lies neoliberal myth number one—that a liberal free-market society will inexorably and inherently march towards greater freedom. To the contrary, direct action has always proved necessary.**

#### This turns the case – the commodification of speech reflects the capitalist illusion of freedom. It makes speech meaningless and kills value to life. Smith ‘14[[3]](#footnote-3)

One pressing issue, moreover, is that majority of the popular movements that have emerged in response to the Snowden leaks appear to be reformist in character. As a result, the discourse isn’t so much about fundamental system change; rather it becomes crafted into making mass surveillance less repulsive and more socially acceptable, even marketable. (Consider, for instance, the latest reforms proposed by President Barack Obama). For Adorno, this reformist inclination can be explained in part through an analysis of the logic of the system of capital. We read in Adorno how under modernity – i.e., capitalism – human beings are treated as commodities[4] and the political-economy, which is principled on concentrations of power (i.e., ‘contradictory recognition’[5]), goes over the head of the individual, particularly as ‘coercive society’ aims to ‘shape people’ on behalf of the economic, social and political status quo.[6] The system of capital, along with the instrumental use of Enlightenment ideals to promote a rational, efficient system[7] have laid a foundation for society wherein the political-economy influences individuals and manufactures consent.[8] Accordingly, people are seen as “substitutable entities valued merely for their instrumental uses or ability to command market resources,” and even where “commodification is resisted, the overriding pull of society is toward the status quo and those forms that are valued by society”. [9] As Kate Schick writes: The mind thus shapes itself into socially acceptable, marketable forms and freedom becomes an illusion, made all the more dangerous and difficult to resist because of the appearance of freedom. This is not the fault of Enlightenment ideals as such, but the instrumental use of these ideals in the promotion of a rational, efficient system: ‘The network of the whole is drawn ever tighter, modelled after the act of exchange’ (Adorno 1981: 21).[10] Present in the logic of the system of capital itself is not an ‘emancipatory reason’ that aims toward universal guiding principles of an actually egalitarian democracy – i.e., Equality, Egalitarianism, Justice, Rights, etc. Rather, in modern capitalism, with its instrumental reason and positivist logic, such concepts lose their meaning.[11] The social narrative no longer accommodates these fundamental principles or judges them to be delusions, because all concepts must be strictly functional in order to be considered “reasonable”.[12] In turn, the ideals of a ‘good’ society, for example ideals toward an actual egalitarian democracy, become dependent on the “interests” of the dominant and governing system, which produces and reproduces the epistemic context of its own validity.[13]

The alternative is to completely withdraw from the logic of capital – this is essential to destroy the fetishism that allows capital to survive. **Johnston 04[[4]](#footnote-4)**

Perhaps the absence of a detailed political roadmap in Zizek's recent writings isn't a major shortcoming. Maybe, at least for the time being, the most important task is simply the negativity of the critical struggle, the effort to cure an intellectual constipation resulting from capitalist ideology and thereby to truly open up the space for imagining authentic alternativesto the prevailing state of the situation. Another definition of materialism offered by Zizek is that it amounts to accepting the internal inherence of what fantasmatically appears as an external deadlock or hindrance (Zizek, 2001d, pp 22-23) (with fantasy itself being defined as the false externalization of something within the subject, namely, the illusory projection of an inner obstacle, Zizek, 2000a, p 16). From this perspective, seeing through ideological fantasies by learning how to think again outside the confines of current restrictions has, in and of itself, the potential to operate as a form of real revolutionary practice (rather than remaining merely an instance of negative/critical intellectual reflection). Why is this the case? Recalling the analysis of commodity fetishism, the social efficacy of money as the universal medium of exchange (and the entire political economy grounded upon it) ultimately relies upon nothing more than a kind of "magic," that is, the belief in money's social efficacy by those using it in the processes of exchange. Since the value of currency is, at bottom, reducible to the belief that it has the value attributed to it (and that everyone believes that everyone else believes this as well), derailing capitalism by destroying its essential financial substance is, in a certain respect, as easy as dissolving the mere belief in this substance's powers. The "external" obstacle of the capitalist system exists exclusively on the condition that [since] subjects, whether consciously or unconsciously, "internally" believe in it.

You do not get a perm: **A.** All of the link evidence indicates that you perpetuate the capitalist system, so if I win even a risk of a link I have proven that you cannot withdraw from it. **B.** It’s a question of sequencing: reforms like the aff can only take place after cap is dismantled because otherwise it just reinforces it.

The role of the ballot is to vote for the debater who proposes the best method for disrupting capitalism. Educational institutions are crucially and specifically responsible for the reproduction of capitalist lies – focus on competition and on inculcating dispositions of deference are the root cause. **Trainer ‘12[[5]](#footnote-5)**

In consumer -­‐ capitalist society ‘ education ’ has little to do with Education. The following is a brief summary of the general critical perspective radical education theorists have been elaborating. This perspective holds that, currently, schools and universities : • Train workers, very well. They [to] develop the skills and more importantly the dispositions required to staff the industrial machine with obedient, diligent and skilled workers who will accept hierarchy and authority, turn up on time, work hard, do what they are told, consume, and not expect to have control over their situation. • Legitimise social position and inequality. Those who fail at school learn that they do not have ‘ brains ’ and therefore do not deserve good jobs and life chances. This helps to make inequality in society seem inevitable and legitimate. • Turn out competitors; people who believe in and love competition, and therefore accept winner-takes-all society; see themselves as deserving their hard -­‐ earned privileges, and see losers as deserving their fate; focus on advancing their own welfare without much interest in the public good or collectivism and who see as legitimate a system which allows the super-rich to thrive. • Help to produce enthusiastic consumers, people who are keen to get ahead, succeed and get rich, who identify modern ity and progress with affluence and see Western ways as the goal for the Third World, and who accept the market system and think technical wizardry will solve all problems. Just as they have passively consumed the activities, work and decisions presented by their teachers, so they passively consume the products, services and decisions presented to them by government, corporations , and professionals. • Produce masses of politically passive, compliant, docile, uncritic al ‘ citizens, ’ largely by devoting almost none of the standard 15+ years of ‘ education ’ to serious examination of their society’s fundamental faults. After that much schooling in intensively authoritarian conditions it is no surprise that they leave the functioning of their society to leaders and experts, show no inclination to take control over their collective fate, and do not question let alone protest the social injustices that their rich-world comfort inflicts on the rest of the world. They are well disposed to staff hierarchical organisations and do what their superiors tell them, to think in power terms, to strive to rise and then boss

You shouldn’t vote on any truth claim implicated in capitalist pedagogy since you can’t believe in it. Capitalism naturalizes it and uses it to perpetuate itself. This means that if I win this evidence you should presume that all of their claims on the role of the ballot level are false because they are influenced by capitalism.

Although the capitalist system creates freedom for the capitalists in the form of private capital, it ultimately hampers freedom as the creation of capital requires the exploitation and fundamental un-freedom of the masses. **Marx**[[6]](#footnote-6):

But does **wage-labour [doesn’t] create any property for the labourer**? Not a bit. **It creates capital**, i.e., that kind of property which exploits wage-labour, and **which cannot increase except upon condition of begetting a new supply of wage-labour for fresh exploitation**. Property, in its present form, is based on the antagonism of capital and wage labour. Let us examine both sides of this antagonism. To be a capitalist, is to have not only a purely personal, but a social status in production. Capital is a collective product, and only by the united action of many members, nay, in the last resort, only by the united action of all members of society, can it be set in motion. Capital is therefore not only personal; it is a social power.When, therefore, capital is converted into common property, into the property of all members of society, personal property is not thereby transformed into social property. It is only the social character of the property that is changed. It loses its class character. Let us now take wage-labour. The average price of wage-labour is the minimum wage, i.e., that quantum of the means of subsistence which is absolutely requisite to keep the labourer in bare existence as a labourer. What, therefore, the wage-labourer appropriates by means of his labour, merely suffices to prolong and reproduce a bare existence. We by no means intend to abolish this personal appropriation of the products of labour, an appropriation that is made for the maintenance and reproduction of human life, and that leaves no surplus wherewith to command the labour of others. All that we want to do away with is the miserable character of this appropriation, under which **the labourer lives merely to increase capital, and is allowed to live only in so far as the interest of the ruling class requires it**. **In bourgeois society, living labour is but a means to increase accumulated labour.** In Communist society, accumulated labour is but a means to widen, to enrich, to promote the existence of the laborer. In bourgeois society, therefore, the past dominates the present; in Communist society, the present dominates the past. In bourgeois society capital is independent and has individuality, while the living person is dependent and has no individuality. And the abolition of this state of things is called by the bourgeois, abolition of individuality and freedom! And rightly so. The abolition of bourgeois individuality, bourgeois independence, and bourgeois freedom is undoubtedly aimed at. **By freedom is meant, under the present bourgeois conditions** of production**, free trade, free selling and buying**. But if selling and buying disappears, free selling and buying disappears also. This talk about free selling and buying, and all the other “brave words” of our bourgeois about freedom in general, have a meaning, if any, only in contrast with restricted selling and buying, with the fettered traders of the Middle Ages, but have no meaning when opposed to the Communistic abolition of buying and selling, of the bourgeois conditions of production, and of the bourgeoisie itself. You are horrified at our intending to do away with private property. **But in** your **existing society, private property is already done away with for nine-tenths of the population**; its existence for the few is solely due to its non-existence in the hands of those nine-tenths. You reproach us, therefore, with intending to do away with a form of property, the necessary condition for whose existence is the non-existence of any property for the immense majority of society.

Thus, as we don’t exist as free rational beings but rather powerless wage-hungry animals in a capitalist system, overthrowing the system is a pre-requisite to moral considerations of the resolution, as the oppressed proletariat cannot hold moral obligations in that state.

1. Mark Tushnet (a leading scholar of constitutional law and legal history, and currently the William Nelson Cromwell Professor of Law at Harvard Law School), Mark A. Graber, Sanford Levinson, *The Oxford Handbook of the U.S. Constitution*, pp518-19. [↑](#footnote-ref-1)
2. Andrew Tillett-Saks (Labor organizer and critical activist author for Truth-Out and Counterpunch), Neoliberal Myths, Counterpunch, 11/7/13, http://www.counterpunch.org/2013/11/07/neoliberal-myths/ [↑](#footnote-ref-2)
3. R.C. Smith April 24, 2014 “POWER, CAPITAL & THE RISE OF THE MASS SURVEILLANCE STATE: ON THE ABSENCE OF DEMOCRACY, ETHICS, DISENCHANTMENT & CRITICAL THEORY” Heathwood Institute and Press <http://www.heathwoodpress.com/power-capital-the-rise-of-the-mass-surveillance-state-on-the-absence-of-democracy-ethics-disenchantment-critical-theory/> [↑](#footnote-ref-3)
4. Johnson, Adrian, interdisciplinary research fellow in psychoanalysis at Emory University, Psychoanalysis, Culture & Society, December v9 i3 p259 [↑](#footnote-ref-4)
5. EDUCATION’ UNDER CONSUMER CAPITALISM, AND THE SIMPLER WAY ALTERNATIVE, Ted Trainer, Simplicity Institute Report 12m, 2012 http://simplicityinstitute.org/wp-content/uploads/2011/04/TrainerEducationSimplicityInstitute.pdf [↑](#footnote-ref-5)
6. Marx, Karl. Economic and Philosophical Manuscripts of 1844. Moscow: Progress, 1974. Print. [↑](#footnote-ref-6)